



European Communities

EUROPEAN PARLIAMENT

SESSION DOCUMENTS

English Edition

26 May 1992

A3-0201/92



R E P O R T

of the Committee on Culture, Youth, Education and the Media
on the Commission proposal for a Council regulation on the
export of cultural goods

(COM(91) 447 final - C3-0080/92)


Rapporteur: Mr Marc GALLE

DOC_EN\RR\208763
Fr.Ne.-pjs


PE 200.678/fin.
Or. Fr.

A Series: Reports - B Series: Motions for Resolutions, Oral Questions - C Series: Documents received from other Institutions (e.g. Consultations)

 = Consultation procedure requiring a single reading

 = Cooperation procedure (second reading) which requires the votes of a majority of the current Members of Parliament for rejection or amendment

 = Cooperation procedure (first reading)

 = Parliamentary assent which requires the votes of a majority of the current Members of Parliament

C O N T E N T S

	<u>Page</u>
Procedural page	3
A. Amendments to the Commission proposal	4
DRAFT LEGISLATIVE RESOLUTION	9
B. EXPLANATORY STATEMENT	10

By letter of 27 February 1992, the Council consulted the European Parliament, pursuant to Article 113 of the EEC Treaty, on the Commission proposal for a Council regulation on the export of cultural goods.

At the sitting of 9 March 1992 the President of Parliament announced that he had referred this proposal to the Committee on Culture, Youth, Education and the Media as the committee responsible and to the Committee on Economic and Monetary Affairs and Industrial Policy and the Committee on Legal Affairs and Citizens' Rights for their opinions.

At the sitting of 6 April 1992 the President of Parliament also referred the proposal to the Committee on Civil Liberties and Internal Affairs and the Committee on External Economic Relations for their opinions.

At its meeting of 25 March 1992 the Committee on Culture, Youth, Education and the Media appointed Mr Galle rapporteur.

At its meeting of 13 April 1992 it considered the validity and appropriateness of the legal basis pursuant to Rule 36(3) of the Rules of Procedure. By letter of 12 March 1992, pursuant to the same Rule, it requested the President of Parliament to consult the Committee on Legal Affairs and Citizens' Rights on the proposed legal basis.

At its meetings of 25 March 1992, 13 and 14 April 1992 and 21 May 1992 it considered the proposal for a Council regulation, the draft report and the opinion of the Committee on Legal Affairs and Citizens' Rights on the legal basis.

At the last meeting it adopted the draft legislative resolution by 12 votes to 0, with 12 abstentions.

The following were present for the vote: La Pergola, chairman; Banotti, 1st vice-chairman; Simeoni, 2d vice-chairman; Fayot, 3d vice-chairman; Galle, rapporteur; Baget-Bozzo (for Coimbra Martins), Barrera I Costa, Barzanti, de la Camara Martinez (for Denys), Dillen, Dührkop-Dührkop (for Rubert de Ventos), Elliott, Escudero, Frémion, Gröner, Hermans, Hoppenstedt (for Fontaine), Lambrias (for Michelini), Maibaum, Mebrak-Zaïdi (for Livanos), Mendes Bota (for Larive), Oostlander, Pack and Rawlings.

The opinions of the Committee on Legal Affairs and Citizens' Rights, the Committee on Economic and Monetary Affairs and Industrial Policy and the Committee on External Economic Relations will be published separately.

The Committee on Civil Liberties and Internal Affairs decided on 21 April 1992 not to deliver an opinion.

The report was tabled on 26 May 1992.

The deadline for tabling amendments will appear on the draft agenda for the part-session at which the report is to be considered.

A

Proposal for a Council regulation
on the export of cultural goods

Commission text¹

Amendments

(Amendment No. 1)

Preamble

- | | |
|--|---|
| <ul style="list-style-type: none">- having regard to the Treaty establishing the European Economic Community, and in particular Article <u>113</u> thereof,- having regard to the proposal from the Commission,- <u>having regard to the opinion of the European Parliament,</u> | <ul style="list-style-type: none">- having regard to the Treaty establishing the European Economic Community, and in particular Article <u>100a</u> thereof,- having regard to the proposal from the Commission,- <u>in cooperation with the European Parliament,</u> |
|--|---|

(Amendment No. 2)

Second recital a (new)

Whereas, by virtue and within the limits of Article 36 of the Treaty, the Member States, will, after 1992, retain the right to define their national treasures and the ability to make the necessary arrangements to ensure that these national treasures are protected; whereas, however, it will no longer be possible for the Member States to resort to checks and formalities at the Community's internal borders in order to ensure that such arrangements are effective;

(Amendment No. 3)

Recital 5a (new)

Whereas this regulation is a first step towards mutual recognition of national legislative provisions on the export of cultural goods,

¹ Complete text COM(91) 447 final - OJ No. 53, 28.2.1992, p.8

Commission text

Amendments

(Amendment No. 4)

Article 1

For the purposes of this Regulation, the term 'cultural goods' shall refer to the items listed in the Annex.

For the purposes of this Regulation, and without prejudice to the rights conferred on the Member States under Article 36 of the Treaty the term 'cultural goods' shall refer to the items listed in the Annex and accompanied by a certificate of origin issued by the appropriate national authorities.

(Amendment No. 5)

Article 2(1)

1. The export of cultural goods shall be subject to presentation of an export licence.

1. The export of cultural goods shall be subject to presentation of an export licence. Such a licence shall also be required as proof that a transfer from one Member State to another is legal and permanent.

(Amendment No. 6)

Article 2, paragraph 4a (new)

4a. The Member States shall inform the Commission immediately of any changes to this list;

(Amendment No. 7)

Article 2, paragraph 5

5. The Commission shall publish the list of these authorities in the C Series of the Official Journal of the European Communities.

5. The Commission shall publish the list of these authorities, and any changes to this list, in the C Series of the Official Journal of the European Communities.

Commission text

Amendments

(Amendment No. 8)
Article 5

For the purposes of implementing this Regulation, the provisions of Regulation (EEC) No. 1468/81, and in particular the provisions on the confidentiality of information, shall apply mutatis mutandis.

For the purposes of implementing this Regulation, the provisions of Regulation (EEC) No. 1468/81, and in particular the provisions on the confidentiality of information, shall apply mutatis mutandis.

The customs services of the Member States shall cooperate with the appropriate authorities as defined by Council Directive (EEC) No./92 with a view to ensuring the greatest possible compliance with its provisions.

(Amendment No. 9)
Article 6

The provisions necessary for the implementation of this Regulation, in particular those concerning the form to be used (model, technical properties, etc.) and the revision of the Annex, shall be adopted in accordance with the procedure laid down in Article 7(2).

The provisions necessary for the implementation of this Regulation, in particular those concerning the form to be used (model, technical properties, etc.), shall be adopted in accordance with the procedure laid down in Article 7(2).

(Amendment No. 10)
Article 7a (new)

7a. The Commission shall inform the European Parliament of any changes which, on the Committee's advice to the Council, it makes to the list in the Annex.

Commission text

Amendments

(Amendment No. 11)

Article 8

Each Member State shall determine the penalties to be applied in the event of breach of this regulation and of any national measures necessary for its application; such penalties should be effective, proportionate and dissuasive.

Each Member State shall determine the penalties to be applied in the event of breach of this regulation and of any national measures necessary for its application; such penalties should be effective, proportionate and dissuasive, and harmonized with each other to prevent major discrepancies between Member States.

(Amendment No. 12)

Article 9, paragraph 2

The Commission shall pass on this information to the other Member States. Every three years it shall present a report to the Parliament, the Council and the Economic and Social Committee on the implementation of this regulation.

The Commission shall pass on this information to the other Member States. Every year it shall present a report to the Parliament, the Council and the Economic and Social Committee on the implementation of this regulation.

(Amendment No. 13)

Annex - Point A.2a (new)

2a. Cultural objects such as sacred vessels, sacerdotal garments, liturgical books, icons, bas-reliefs and sculptures over 100 years old.

(Amendment No. 14)

Annex - Point A.3.

A.3. Pictures, paintings and drawings produced entirely by hand on any support and in any material (1).

A.3. Pictures, paintings, drawings and mosaics produced entirely by hand on any support and in any material (1).

(Amendment No. 15)

Annex, A.5

Original sculptures and statuary

Sculptures and statuary in general

Commission text

Amendments

(Amendment No. 16)
ANNEX

A.7. Photographs

A.7. Photographs and audiovisual material

(Amendment No. 17)
ANNEX

A.12a (new)

Scientific instruments more than 100 years old.

(Amendment No. 18)
ANNEX - Point A.13

A.13. Motor vehicles over 75 years old

A.13. Vehicles over 100 years old and motor vehicles over 50 years old

(Amendment No. 19)
ANNEX - Point Ba (new)

1. If a cultural object may be classified in more than one of the categories listed in the Annex, it must be considered as belonging to the category which enables it to be given the greatest protection.
2. The above financial criteria are not applicable to objects listed in section A which have been stolen or fraudulently removed from their country of origin.

DRAFT LEGISLATIVE RESOLUTION

embodying the opinion of the European Parliament
on the proposal for a Council regulation
on the export of cultural goods

The European Parliament,

- having regard to the proposal for a Council regulation (COM(91) 447 final)¹,
 - having been consulted by the Council pursuant to Article 113 of the EEC Treaty (C3-0080/92),
 - having regard to the report of the Committee on Culture, Youth, Education and the Media and the opinions of the Committee on Legal Affairs and Citizens' Rights, the Committee on Economic and Monetary Affairs and Industrial Policy and the Committee on External Economic Relations (A3-0201/92),
1. Approves the Commission proposal subject to Parliament's amendments and in accordance with the vote thereon;
 2. Calls on the Commission to amend its proposal accordingly, pursuant to Article 149(3) of the EEC Treaty;
 3. Calls on the Council to notify Parliament should it intend to depart from the text approved by Parliament;
 4. Asks to be consulted again should the Council intend to make substantial modifications to the Commission proposal;
 5. Instructs its President to forward this opinion to the Council and Commission.

¹ OJ No. C 53, 28.2.1992, p.8

B

EXPLANATORY STATEMENT

One of the fundamental principles of the European Community is the free movement of goods. To a certain extent this covers national art treasures as well. According to Article 36 of the EEC Treaty, the Member States can restrict trade in 'national treasures possessing artistic, historic or archaeological value'. This provision allows the Member States to keep national art treasures in their own country and protect them from illegal export.

The Single European Act provides that, from 1 January 1993, all internal frontier controls in the Community will be abolished, thus removing an instrument which makes it possible for the Member States to keep their national art treasures within their own borders. It is urgent, therefore, that the Community should equip itself in good time with instruments to guarantee the protection of national treasures. Account must be taken of the individual and special characteristics of cultural objects, which cannot be treated as mere goods. This is also evident from Article 36 of the EEC Treaty, which constitutes an important exception to the principle of the free movement of goods.

It is a positive sign that the Commission has already followed up Parliament's resolution³ which was based on my interim report. In this resolution Parliament calls for the establishment of an effective system of checks at the Community's external frontiers. This regulation is an excellent response. Its main lines are based on:

- a definition of the categories of cultural goods concerned;
- the introduction of an export licensing scheme;
- the application, in the case in point, of the provisions of Council Regulation (EEC) No. 1468/81⁴ on mutual assistance between the administrative authorities of the Member States and cooperation between the latter and the Commission to ensure the correct application of the law on customs or agricultural matters;
- the setting up of an advisory committee to help decide on the detailed implementing rules and to revise the annex.

If the Member States' national artistic, historical and archaeological treasures are to be protected effectively once controls have been abolished at internal frontiers, each Member State will have to play its part in protecting the national treasures of the other Member States, through harmonized export controls at the external frontiers.

Naturally, if this regulation is to function effectively, the articles which it covers must be specified. The Commission supplies an annex giving a list

³ Resolution on the movement of objects of cultural interest in the context of the single market, OJ No. C 19, 28.1.1991, p.287

⁴ OJ No. L 144, 2.6.1981, p.1, as amended by Council Regulation (EEC) No. 945/87 of 30.3.1987

of objects. Although it is stated in the explanatory memorandum that the annex is not intended to define those objects which are classed as 'national treasures', it would nonetheless appear to constitute some form of definition. Under the provisions of Article 36, this is the exclusive right of the Member States.

The introduction of uniform controls at external frontiers requires an accurate and uniform definition of the substantive scope of the measures and the arrangements for implementing them. The ideal is unconditional mutual recognition of the relevant national laws. This, however, would not be feasible in practice, as it would require customs officials to apply twelve different national laws at the external frontiers. A list of categories of cultural objects which are subject to the regulations provides an acceptable solution, but should be regarded as a first step towards achieving mutual recognition at a later stage.

The proposal to set up a committee to revise the annex, made up of experts from the Member States and chaired by a Commission representative, is a particularly positive sign. The work of this committee must not be undermined by delays in implementing the changes it proposes.

The fact that such a committee has been set up is also one of the reasons we can accept the annexed list as it stands. It is tempting to make changes in amounts and dates but this must be resisted. We must not preempt the committee's work.

In general the Commission text is to be welcomed. The amendments are chiefly concerned with:

- informing Parliament immediately if any changes are made, either to the list of competent national authorities or to the list given in the annex;
- emphasizing that a Community regulation can be seen as a first step towards mutual recognition of the Member States' legislations;
- informing Parliament more rapidly about implementation of the regulation.

Finally, your rapporteur would like to pay tribute to the Commission's efforts in this difficult matter to reach an acceptable compromise between the various national regulations which will no longer be sufficient after 1 January 1993.

